

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:21-CR-00237-M

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHONY WAITER WILLIAMS,

Defendant.

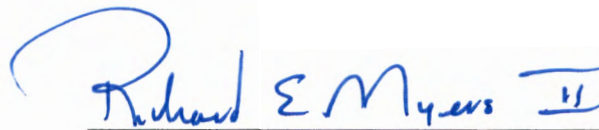
ORDER

This matter comes before the court on Defendant's Motion Pursuant to Rule 33 [DE 218] and the Government's Motion to Withdraw 851 Enhancement and Proceed with Sentencing. [DE 238]. Defendant moves for a new trial as to the 18 U.S.C. § 851 enhancement, contending that during Phase II of the trial, a conviction was submitted to the jury that did not refer to Defendant. [DE 218 at 1]. The Government, in response, concedes error. [DE 238 at 3]. It admits that Government's Exhibit 68—a judgment from the Southern District of West Virginia (case number 3:98-CR-00048-005)—referred to “a different Anthony Williams.” *Id.* Accordingly, the Government offers “that while the Defendant would be eligible for the enhancement . . . due to a previous federal conviction . . . [t]he introduction of this conviction into evidence likely confused the jury and would require (at a minimum) a new trial on the § 851 issue.” *Id.* The Government moves to withdraw the § 851 enhancement.

For good cause shown, the Government's motion [DE 238] is GRANTED, and Defendant's motion [DE 218] is DENIED AS MOOT. The court accepts the parties' joint position,

and it will neither apply a § 851 enhancement nor consider the conviction described in Government's Exhibit 68 when calculating Defendant's criminal history category.

SO ORDERED this 9th day of January, 2025.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE